

S/01510093
cc: Wayne



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Green River District, Price Field Office

125 South 600 West

Price, UT 84501

Phone: (435) 636-3600 Fax: (435) 636-3657

<http://www.blm.gov/ut/st/en/fo/price.html>



In Reply Refer To:
3809/3602 (UTG020)
UTU-79570

OCT - 5 2010

CERTIFIED MAIL-7009-2820-0000-6208-9951
RETURN RECEIPT REQUESTED

RECEIVED

OCT 07 2010

DIV. OF OIL, GAS & MINING

DECISION

Jerome L. Bown, President
Bown Stone Products, Inc.
P.O. Box 27
Manti, Utah 84642

:
:
:
:

Surface Management;
Failure to follow signed
escrow agreement

NON-COMPLIANCE ORDER

A compliance examination of the Bown Stone Products, Inc., Desert Sienna Quarry (DSQ) operation under Plan of Operations UTU-79570 in Emery County, Utah, was conducted September 24, 2010. This operation is located in T. 21 S., R. 8 E., Sections 5 and 6. The inspection revealed that the quarry is currently operating and stockpiling mineral materials on pallets for removal and sale. It was also observed that over 40 pallets of quarried material have been removed from the site without the monthly documentation. Moreover, a file review showed that you have not sent the agreed upon documentation for your operations as stated below under paragraph F part 4 of the escrow agreement:

F. The Claimant and BLM have agreed to enter into this stipulation agreement to protect their interests while allowing operations to continue pending the outcome of a mineral examination report and any administrative proceedings. Now, therefore, the Claimant and the BLM, by and through their respective authorized representatives, hereby stipulate as follows:

4. Once the escrow has been established, **the claimant shall prepare and deliver to the BLM Price Field Office, on a monthly basis, a report as to the quantity of sandstone excavated and removed from the subject lands during the preceding month.** The report shall be in a format prescribed by the BLM and shall be submitted no later than the 15th day following the end of the month for which the Claimant is

reporting. The Claimant shall maintain and preserve records, maps, and surveys related to production, verification, and valuation as directed by the BLM. Photocopies of scale receipts need to be attached to each month's summaries submitted to the Price Field Office.

Bown Stone Products, Inc. has only provided production reports for operations up to July 2009. In addition, during a phone conversation on May 4, 2010 the BLM communicated this deficiency to Mr. Gerome Bown, who said that the problem would be rectified by June 1, 2010; it has been three months past this promised delivery date and the BLM has not received the production reports. Moreover, several attempts to communicate with Bown Stone Products, Inc. via phone calls and e-mail have been unsuccessful.

A review of our records indicates the following facts:

- The mine is operational and producing mineral materials for sale;
- Mineral materials have left the property without documentation;
- Bown Stone has not complied with the escrow agreement by submitting monthly production reports; and
- Bown Stone has been previously notified of this deficiency.

Based on our field inspection and file review, the Bown Stone Products, Inc.'s mining activity is now in non-compliance and is in violation of their escrow agreement. Specifically, Bown Stone Products, Inc. is in violation of the following regulation 43CFR 3809.101(a)(3). Under authority of 43 CFR 3809.601(a) Bown Stone Products, Inc. is ordered to, within 30 days from receipt of this order, to submit production records and escrow receipts for the months commencing with August 2009 and ending September 31, 2010.

If Bown Stone Products, Inc. does not comply with this order, the BLM may take further action against you pursuant to 43 CFR 3809.601(b) and issue a suspension order for all or part of the Desert Sienna operation. Additionally, action could be taken under the 43 CFR 3809.604, 43 CFR 3809.700 and/or 43 CFR 3809.701.

Appeal of the Decision

If you do not agree and are adversely affected by this decision, you may request that the Utah BLM State Director review this decision. If you request a State Director Review, the request must be received in the Utah BLM State Office (P.O. Box 45155, Salt Lake City, Utah 84145-0155), no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a Stay is granted by the State Director. If you request a Stay, you have the burden of proof to demonstrate that the Stay should be granted.

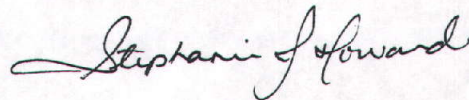
If the State Director does not make a decision on your request for review of the decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM State Office to determine when BLM received the request for State Director Review. You have 30

days from the end of the 21-day period in which to file your Notice of Appeal with this office (125 South 600 West, Price, Utah 84501), which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office (125 South 600 West, Price, Utah 84501) within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to IBLA.

If you have any question, please call Chris Conrad at 435-636-3667.

Sincerely,



Stephanie J. Howard
Associate Field Manager

Enclosure:

1. Form 1842-1, Information on Taking Appeals to the Interior Board of Appeals

cc: Terry Snyder, UTSO
Stan Perkes, UTSO

Michael Jackson, RFO

Wayne Western, UDOGM
1594 West North Temple, Suite 1210
P. O. Box 145801
Salt Lake City, Utah 84114-5801

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

**1. NOTICE OF
APPEAL.....**

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL..... U.S. Department of Interior, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road
Carson City, NV 89701

WITH COPY TO
SOLICITOR... U.S. Department of the Interior, Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Room E-2753,
Sacramento, CA 95825-1890

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO
SOLICITOR..... U.S. Department of the Interior, Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Room E-2753,
Sacramento, CA 95825-1890

4. ADVERSE PARTIES.....

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE.....

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY.....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)